

REMARKS

This Response is submitted in reply to the non-final Office Action mailed on March 15, 2007. No fee is due in connection with this Response. The Director is authorized to charge any fees which may be required, or to credit any overpayment to Deposit Account No. 02-1818. If such a withdrawal is made, please indicate the Attorney Docket No. 115808-338 on the account statement.

Claims 1, 4, 6, 8, 10, 12, 13, 15-17, 19-24 and 30-33 are pending in this application. Claims 2, 3, 5, 7, 9, 11, 14, 18 and 25-29 were previously canceled. In the Office Action, Claims 1, 4, 6, 8, 10, 12, 13, 15-17, 19-24 and 30-33 are rejected under 35 U.S.C. §103. For the reasons set forth below, Applicant respectfully submit that the rejections should be withdrawn.

In the Office Action, Claims 1, 4, 6, 8, 10, 12, 13, 15-17, 19-24 and 30-33 have been rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,156,355 to Shields et al. ("*Shields*") in view of EP 0862863 to Cavadini et al. ("*Cavadini*") or WO 98/56263 to Marsh et al. ("*Marsh*"). Applicant believes this rejection is improper and respectfully traverses it for at least the reasons set forth below.

Independent Claims 1, 6, 13, 20-24 and 30-31 recite a method of maintaining or enhancing the healthy functioning of the skin and coat system of a pet in need of same comprising the step of feeding the pet a food composition comprising a nutritional agent comprising a prebiotic that comprises about 0.1% to about 20% by weight of a food composition, a probiotic micro-organism that comprises about 0.5% to about 20% by weight of a food composition, and a long-chain fatty acid. Applicant respectfully submits that, even if combinable, the cited references fail to disclose or suggest all the elements of the present claims.

For example, *Shields* fails to disclose or suggest a nutritional agent comprising a prebiotic that comprises about 0.1% to about 20% by weight of a food composition as required, in part, by the present claims. The Office Action admits the same. See, Office Action, page 2. Further, *Shields* fails to disclose or suggest a method of improving or maintaining the skin and coat system of a pet in need of same as required, in part, by the present claims.

Applicant further submits that *Cavadini* and *Marsh* fail to remedy the deficiencies of *Shields*. For example, based on the portions cited (*Cavadini*, page 5, lines 22-26 and 54-57), the Office Action relies on *Cavadini* only in regard to alleged probiotic disclosures. See, Office

Action, page 2. Similarly, as admitted in the Office Action, *Marsh* is also relied upon only for allegedly disclosing a type of probiotic. As a result, the cited references, taken together, fail to disclose or suggest all the elements of present claims.

In the Office Action, Claims 1, 4, 6, 8, 10, 12, 13, 15-17, 19-24 and 30-33 are rejected under 35 U.S.C. §103(a) as being unpatentable over *LOWE '88* in view of *Marsh*, *Shields*, *LABDIET '98*, U.S. Patent No. 5,756,088 to Matsuura et al. ("*Matsuura*"), and *Cavadini*. Applicant believes this rejection is improper and respectfully traverses it for at least the reasons set forth below.

Applicant respectfully submits that, even if combinable, the cited references fail to disclose or suggest all the elements of the present claims. For example, *LOWE '88*, *Marsh*, *Shields*, *LABDIET '98*, *Matsuura* and *Cavadini* all fail to disclose or suggest Applicant's claimed methods comprising the step of administering a nutritional agent including a probiotic that comprises about 0.1% to about 20% by weight of a food composition as required, in part, by the present claims.

Moreover, *LOWE '88*, *Marsh*, *Shields*, *LABDIET '98*, *Matsuura* and *Cavadini* do not even teach or suggest any methods for improving or maintaining the skin and coat system of a pet in need of same using a nutritional agent that comprises a probiotic, a probiotic micro-organism and long-chain fatty acids at the levels detailed above, as required by the present claims. In fact, the Patent Office has failed to show any evidence in the cited references regarding a method for improving or maintaining the skin and coat system of a pet in need of same or the step of feeding or administering to the pet a nutritional composition including a probiotic, a probiotic micro-organism and a long-chain fatty acid for improving or maintaining the skin and coat system. As a result, the cited references fail to achieve a reasonable expectation of success in accordance with the present claims.

The Office Action states that the prior art as cited feeds non-specified prebiotics, probiotics, and fatty acids to the same animals as Applicant's and that *Shields* repeatedly recites maintaining healthy skin and coat with omega 3 and 6 fatty acids, chicory root, inulin sources, zinc and probiotic lactobacilli feed as in Example 5 of *Shields*. See, Office Action, page 3. However, the methods of the present claims are directed to improving or enhancing the skin and coat system of a pet in need of such treatment. As a result, the methods also require feeding or

administering a nutritional composition, in accordance with the present claims, to a pet that would inherently have skin or coat system deficiencies. By contrast, *Shields* specifically states that the disclosed diets are "preventative rather than therapeutic in nature" and that "there is little harm if animals are not fed the recommended diet." See, *Shields*, column 7, lines 52-55. Moreover, when *Shields* actually refers to skin and hair coat problems in pets, *Shields* only teaches the use of fatty acids to combat the problem, rather than a disclosure of prebiotics as required by the claims. See, *Shields*, column 10, lines 36-48.

For the reasons discussed above, the combination of *LOWE '88*, *Marsh*, *Shields*, *LABDIET '98*, *Matsuura*, and *Cavadini* does not teach, suggest, or even disclose all of the elements of the present claims, and thus, fails to render the rejected claims obvious.

Accordingly, Applicant respectfully requests that the obviousness rejection with respect to Claims 1, 4, 6, 8, 10, 12, 13, 5-17, 19-24 and 30-33 be reconsidered and the rejection be withdrawn.

For the foregoing reasons, Applicant respectfully requests reconsideration of the above-identified patent application and earnestly solicits an early allowance of same.

Respectfully submitted,

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~~BY~~

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